

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEALER COMPUTER SERVICES, INC.,

Case No. 07-15192

Plaintiff,

Honorable Nancy G. Edmunds

v.

FOX VALLEY FORD, INC., ET AL,

Defendants.

/

**ORDER CANCELLING HEARING AND DENYING DEFENDANTS' MOTION TO
DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION [4]**

This matter comes before the Court on Defendants' motion to dismiss for lack of subject matter jurisdiction. The Court finds that the facts and legal arguments are adequately presented in the parties' motions and supporting briefs and that the decision process would not be significantly aided by oral argument. Therefore, pursuant to Eastern District of Michigan Local Rule 7.1(e)(2), Defendants' motion will be decided on the briefs and without oral argument.

Defendants' motion is DENIED. Defendants do not contest that this Court has diversity jurisdiction over this matter under 28 U.S.C. § 1332. (Defs.' Mot. at 8.) Rather, Defendants argue, as they did in a companion case, that this Court lacks subject matter jurisdiction to consider a motion to vacate a "clause construction" arbitration award. See *Dealer Computer Servs., Inc. v. Dub Herring Ford*, 489 F. Supp.2d 772, 777-78 (E.D. Mich. 2007) (rejecting arguments similar to those raised here and concluding that the Court does have subject matter jurisdiction to consider the plaintiff's motion to vacate a "clause

construction" arbitration award). The arguments raised in Defendants' current motion do not persuade the Court to come to a different conclusion than that reached in *Dub Herring Ford*. As observed by the First Circuit Court of Appeals, "somewhat different standards govern the finality of judgments [in a civil action] and final awards in arbitration proceedings." *Hart Surgical, Inc. v. Ultracision, Inc.*, 244 F.3d 231, 235 n.3 (1st Cir. 2001) (internal quotation and citation omitted).

For the above stated reasons, Defendants' motion to dismiss is DENIED. It is further ordered that the April 9, 2008 hearing on Plaintiff's motion to vacate "clause construction" award [1] is ADJOURNED. Defendants shall file a response to Plaintiff's motion on or before **April 1, 2008**. Plaintiff shall file a reply, if any, in accordance with the Local Rules for the United States District Court for the Eastern District of Michigan.

s/Nancy G. Edmunds

Nancy G. Edmunds
United States District Judge

Dated: March 11, 2008

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 11, 2008, by electronic and/or ordinary mail.

s/Carol A. Hemeyer

Case Manager